Blog Post: The Law Gone Awry

On June 29, 2016, the Ministry of the Environment and Climate Change issued Renewable Energy Approval No. 5272-A9FHRL ("REA") to North Kent Wind, granting approval for the construction, installation, operation, use and retiring of a Class 4 wind facility with 36 wind turbines and a total name plate capacity of up to 100 megawatts in Chatham-Kent, Ontario.[1]

On July 13, 2016, Kevin Jakubec appealed the REA to the Environmental Review Tribunal ("Tribunal") under s. 142.1(2)of the *Environmental Protection Act* RSO 1990, c E.19, on the grounds that the Project will cause serious harm to human health and serious and irreversible harm to the natural environment.[2]

A settlement agreement was signed and the appeal was dismissed on October 6, 2016.

The installation of the wind turbines began and the option of pile driving into the bedrock was used. Other options were available. The result was toxic shale debris being released from the bedrock into the water wells that local farmers have relied on for generations, in some instances completely blocking their access to drinking water.

"The project developer, North Kent Wind One (owned by Samsung Energy and Pattern Energy), started pile driving for the first turbine foundation in late June. Some of the 12 wells affected to date have become so silted up that water no longer flows through the system. The company is in the process of providing water tanks and jugs to those who have filed complaints but last Thursday it told the first two families that received tanks that it would be removing them, claiming the well problems were not caused by construction activities."
https://canadians.org/media/twelfth-complaint-filed-against-samsung-wind-turbine-project-water-well-interference-chatham

Although the Ministry has the power to suspend the approval, the project has not yet been halted. The Ministry is failing to test the ground water in some cases, and not testing for toxic shale particles generally.

Some farmers took matters into their own hands to try to disrupt the destruction of their drinking water supply, so now Samsung is suing them:
https://canadians.org/media/council-canadians-slams-heavy-handed-samsung-energy-legal-tactics

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[1] Jakubec v Ontario (Environment and Climate Change), 2016 CanLII 67371 (ON ERT), <http://canlii.ca/t/gv20x>, retrieved on 2017-10-12, at para 1.

[2] Ibid. at para 2.

This is another example of how the wealthy are able to use the full extent of the law to protect their interests and to intimidate vulnerable people whose lives and livelihoods are at stake and who, in the absence of strong government response to protect them, have no clear way forward to protect themselves.